

DEPARTMENT OF EMPLOYEE TRUST FUNDS INCOME CONTINUATION INSURANCE ADMINISTRATION MANUAL - LOCAL

CHAPTER 7 — BENEFITS

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700 Introduction

The Income Continuation Insurance (ICI) program is an integrated disability benefit plan designed to supplement other benefits to maintain a specified total income. Integration of benefits refers to the combined amount of disability income from all sources set as a percentage of the Wisconsin Retirement System (WRS) annual earnings received by the employee before disability. Although the individual sources of the total benefit may vary, the specified total benefit will be met under this program.

Employees electing ICI coverage are required to select an elimination period of 30, 60, 90, 120 or 180 calendar days that, in the event of disability, must elapse before ICI benefits begin. ICI benefits are based on 75% of the claimant's pre-disability earnings, less any other benefit income sources. Notify the third party administrator immediately if you become aware that your employee receiving ICI benefits is also receiving income from other benefit sources. (See Subsection 708 for additional information on benefit offsets.)

Eligibility requirements for other disability programs administered by the Department of Employee Trust Funds (ETF) are found in the following disability booklets:

- *Disability Benefits* (ET-5102)
- *§ 40.65 duty Disability and Survivor Benefits* (ET-5103)
- *Long-Term Disability Insurance* (ET-5314)

These booklets are available on ETF's Internet site at <http://etf.wi.gov> or by contacting ETF. (Refer to Subchapter 109 for alternative methods of obtaining ICI forms.)

701 Eligibility for ICI Benefits

ICI benefit eligibility requires that ICI coverage be in effect on the “first date of disability” as defined in the ICI plan. ICI benefit payments do not begin until a claimant has been totally and continuously disabled through the entire elimination period selected on their *ICI Application* (ET-2307). No ICI benefit is payable for days falling within the selected elimination period.

ICI benefits are payable beginning the first calendar day following the last day of the elimination period and for each succeeding calendar day until the disability ceases as defined by ICI plan provisions. ICI benefits are paid only for full days of disability, not partial days. No ICI benefit payments can be made while earnings are still being paid for sick leave hours, vacation, holiday pay, etc.

Disability Definitions:

- During the first 12 months of disability, “totally disabled” is defined as the claimant’s inability, by reason of any medically determinable physical or mental impairment as supported by objective medical evidence, to perform the duties of their position.
- After the first 12 months, “totally disabled” is defined as the claimant’s complete inability, by reason of any medically determinable physical or mental impairment supported by objective medical evidence, to engage in any substantial gainful activity for which they are reasonably qualified, with due regard to the claimant’s education, training and experience. Claimants shall be considered engaged in substantial gainful activity when earnings from that activity are equal to or greater than the gross ICI benefit for the same period of time.

702 Determining Dates of the Elimination Period

The ICI third party administrator determines the beginning date of the elimination period. The first day of the elimination period will be no earlier than the day after the last day worked, or if the claimant did not see a physician on the last day worked, the day the claimant is first seen for medical treatment following the last day worked. The claimant must be treated by a physician after they cease working to determine whether the medical condition meets the plan’s disability definition. However, if the claimant is involved in a treatment plan with a physician for a medical condition prior to ceasing employment and the physician indicates the disability definition has been met, the elimination period may begin the day following the last day worked. In no event can the elimination period begin prior to the date the complainant is completely off work and satisfies the above definitions of total disability (and **only** if the claimant is still insured under the ICI plan).

The first date of disability is the first date certified by a physician that the claimant is no longer able to perform the duties of their position due to a medical condition. This date may not be earlier than the last date on which the claimant performed any work. If the claimant did not see a physician on the last day worked and has not been receiving treatment for the medical condition prior to ceasing work, the first date of treatment is the first possible date the elimination period can begin. Claimants must have ICI coverage in effect on the first date of treatment. ICI premiums must be continued in full until the employer receives notification of the claim’s approval.

Sick leave, vacation, holiday and compensatory time need NOT be exhausted before ICI benefit payments can begin. Subject to employer personnel policies and rules, claimants may use such time at their own discretion. However, no ICI benefits are payable for any day for which the claimant is paid sick leave, vacation, holiday or compensatory time after the elimination period is satisfied. Any sick leave, vacation or compensatory time used after the selected elimination period must be reported to ETF on *ICI Transaction Report* (ET-5901).

703 Earnings for Benefit Payment Purposes

The amount of “earnings” used for ICI claim computation purposes are the claimant’s gross WRS earnings as reported to ETF by the employer for the last complete calendar year prior to the first date of disability, rounded to the next higher thousand. However, if the prior year represents an interruption of earnings extending three consecutive months or more or the employee is newly hired, the earnings are based on the projected salary. The ICI benefit is based on those projected earnings. (See Subchapter 302C.)

In cases where a permanent change in the employee’s percentage of appointment results in a new projection of earnings, the employee must work at the adjusted percentage of appointment for a minimum of one complete pay period prior to the first date of disability for the ICI benefit to be based on the adjusted salary.

704 Benefit Payments

Following completion of the claimant’s selected elimination period ICI benefits are paid for every day of continuing disability including weekends. The rounded annual salary is divided by 12 to obtain the monthly average salary and then multiplied by 75% to obtain the monthly benefit amount. Benefits are paid monthly, with a check dated the first of the month for benefits covering the previous month. For each day of the benefit period less than one month partial monthly payments are determined at one-thirtieth (1/30) of the monthly benefit.

The following is an example of how ICI benefits are calculated:

Previous Year’s WRS Earnings	Earnings Rounded up	Monthly Earnings
\$28,323.16	\$29,000.00 ÷ 12 =	\$2,416.67
Monthly Earnings	Monthly ICI Benefit	Daily ICI Benefit
\$2,416.67 x 75% =	\$1,812.50 ÷ 30 =	\$60.42

The maximum benefit payable is \$4,000.00 per month.

ICI pays disabled employees a monthly amount that, together with other income from disability or retirement plan sources listed in Subchapter 708, maintains a specified percentage of the employee’s pre-disability earnings. The specified percentage remains the same for the entire disability period, although the benefit income from various sources may change due to cost of living adjustments.

705 Dates of Benefit Payment Checks

ICI payments are made at the beginning of the month for the preceding benefit month. For example, January benefits are paid by a check dated February 1. The third party administrator is required to have the checks to the post office at least 2 days prior to the date of the check.

Claimants disabled for a minimum of six months and receiving short-term disability ICI benefits have the option of receiving benefits through electronic deposit; electronic deposit is mandatory for claimants receiving long-term disability ICI benefits. The claimant must complete the *Automated Clearing House* (ACH) authorization form provided by the third party administrator. ACH ensures that benefits are received timely and prevents checks from being delayed, lost, stolen or fraudulently cashed.

All required medical information and information from the employer must be processed by the third party administrator no later than the third week of the month in order to issue a check/payment in the next—first of the month—payroll. Upon receipt of the required medical or employer documentation, the plan language allows the third party administrator 10 calendar days to process that information for payment. Documentation received less than 10 calendar days prior to the cutoff date for check processing (the third week of the month) may cause a delay in issuing benefit payments.

Claimants failing to receive an expected benefit check after allowing reasonable time for mail delivery should contact the third party administrator. (See Subchapter 104 for contact information.) The third party administrator must allow the post office 12 days to deliver a check before a stop payment is issued and a new check mailed.

706 Continuation of Benefit

The third party administrator estimates the anticipated length of all ICI disability benefits. Depending on the cause and severity of the disability, as indicated in the original physician statement, the third party administrator periodically requests supplemental medical information to determine whether the insured is still disabled. The frequency of these requests depends on the nature and duration of the disability.

707 Maximum Duration of Benefits

ICI benefits are payable through the end of the month in which a claimant reaches age 65, as long as the claimant meets all of the ICI plan requirements. However, benefits may extend beyond age 65 if the claimant was 62 or older on the first date of the disability. ICI benefits are not paid beyond the end of the month in which the employee turns age 70.

Note: ICI claimants who return to part-time employment while receiving ICI benefits are subject to the same maximum duration limits as those returning to full-time employment.

The maximum duration of benefits for disabled insured employees is:

<u>Age at Date of Disability</u>	<u>Maximum Duration of Benefits in Years</u>
61 or younger	To age 65
62	3.50 years
63	3.00 years
64	2.50 years
65	2.00 years
66	1.75 years
67	1.50 years
68	1.25 years
69	To age 70

708 Offsets From Other Benefit Sources

ICI benefits are reduced by the gross amount of disability, retirement, separation or other income replacement benefits paid or payable from other State, Federal or employer sponsored sources. Claimants must apply for any other benefits for which they may be eligible. ICI benefits will be reduced by the largest benefit available from other sources, even though the claimant may select an option that pays a reduced benefit amount.

A claimant younger than the normal WRS retirement age for their employment category is not required to apply for a WRS retirement or separation benefit. However, should they do so, the ICI benefit will be offset by the maximum benefit provided by that income source.

A claimant approved for ICI benefits is notified of the requirement to apply for all other available benefits and of the possibility that ICI benefits will need to be repaid due to the approval of the other income. Other benefit sources include:

- Any Social Security, disability or retirement benefits (including any benefits paid to the spouse or dependents) based on the employee's work record.
- Worker's Compensation – temporary total disability, temporary partial disability and compromise/settlement agreements. Note that permanent partial disability, permanent total disability, medical expenses, penalties assessed against employer, and attorney fees are not offset from the ICI benefit.
- Any employer liability law benefits (Duty disability benefits approved under § 40.65, Wis. Stat.)
- Any occupational disease law.
- Any Wisconsin Retirement System (WRS) retirement, disability retirement and separation benefits.
- Any employer sponsored salary continuation plan, including any plan whose premiums are paid or collected via payroll deduction.
- Earnings (including vacation and holiday pay) and paid sick leave.
- Unemployment compensation.

The ICI third party administrator determines whether claimants are required to apply for other benefits. Should medical evidence support the application, the claimant is required to apply for the benefit and complete the application process. For example, applications for Social Security Disability Insurance must be pursued through the administrative law judge level of appeal.

The ICI third party administrator also instructs the disabled employee to apply for Worker's Compensation (WC) benefits if the illness/injury appears work-related. Future ICI benefits may be reduced or suspended if the employee fails to apply for WC benefits. Once a WC decision is issued, the employer must report any approved WC awards to the third party administrator who then determines whether the ICI benefit needs to be reduced. Employers must report any temporary WC disability benefits on the *Income Continuation Insurance Report of Employment and Earnings* (ET-5901). (See Subchapter 902.)

In the event the WC claim determination is delayed, ICI benefits will be payable following the selected elimination period and computed without any WC adjustment. However, ICI payments are recomputed once the WC award is determined. Overpayments created by a WC award or another income source must be repaid (to the ICI program) by the claimant. Payment options include repayment in full, monthly repayments made directly to ETF, wage assignments (garnishment) and/or withholding of future benefits.

Should an employee return to your employ in an appointment less than their pre-disability appointment, you are required to report any part-time earnings as indicated in Subchapter 900.

709 Reduction or Termination of Benefits

ICI benefits are reduced or terminated when any of the following occur:

A. Return to full-time employment

Benefits are payable through the date of return or through the date medical evidence indicates the claimant is capable of returning to work full-time, if earlier. A return to full-time employment (except for employees participating under approved rehabilitation programs) is defined as the ability to perform a normal work schedule for:

- 14 consecutive calendar days if the claimant has been disabled fewer than 12 months; or
- 6 months if the claimant has been disabled for more than 12 months.

B. Return to part-time employment

Benefits continue on a reduced basis if the claimant returns to part-time employment with the pre-disability employer or if employment is approved as rehabilitative training. The ICI benefit will terminate for claimants receiving ICI benefits under the long-term disability benefit whose gross part-time earnings are equal to or greater than the gross ICI benefit. The claimant is required to begin paying ICI premiums to continue ICI coverage.

The third party administrator will contact the employers of any claimant released to return to part-time employment with restrictions to determine whether that employer can/will accommodate the restrictions.

NOTE: Claimants released to return to work for a specified number of hours but who choose to work fewer hours, will have their ICI benefit reduced by the number of hours specified by the physician release.

710 Rehabilitative Training

Rehabilitative training may be approved under the ICI program if the claimant can no longer perform their previous occupation due to disability but, with proper training and education, could be capable of performing other gainful activities. A gainful activity is one that would provide an income equal to or greater than the gross ICI benefit. Rehabilitative training may include higher education, vocational training, job counseling, on-the-job training, or retraining. All rehabilitative training plans must be in writing, approved in advance by ETF, and include specific goals and dates agreed to by the claimant. In addition to regular benefits, once the rehabilitation program has been approved, expenses such as tuition or textbooks (expenses associated with rehabilitation) may be paid by the ICI program if these expenses are not payable from other sources.

As an incentive to return to work, only 75% of earnings from approved rehabilitative employment apply to the reduction of the claimant's ICI benefit. Sick leave paid after returning to work reduces the benefit amount dollar-for-dollar at the time paid. Earnings from unapproved rehabilitative employment reduce the claimant's ICI benefit amount dollar-for-dollar.

Under certain approved programs, ETF may authorize a benefit offset waiver for all or part of the rehabilitative earnings for a maximum of nine months; ETF must pre-approve the offset waiver. The claimant is required to provide appropriate documentation supporting any expenses related to accommodating their needs in getting to work and/or having an appropriate workstation.

Claimants determined physically and mentally capable of rehabilitative training who refuse to participate may have ICI benefits offset by the amount of projected rehabilitative employment earnings or may be subject to termination or suspension of ICI disability benefit payments.

711 Social Security Withholding on ICI Benefits

Social Security regulations provide that any income from a sickness or disability plan (including Long-Term Disability Insurance) received during the first six months of a disability is subject to Social Security withholding if the employer paid a portion of the ICI premiums. The percentage of the benefit subject to Social Security withholding is equal to the percentage of the gross premium paid by the employer. Therefore, ICI benefits

received during the first six months include the Social Security (FICA) withholding deduction.

Social Security withholding ceases when a claimant terminates during the first six months of disability due to the approval of a WRS disability retirement benefit.

712 Taxability of ICI Benefit

The percentage of benefits considered taxable income is directly proportionate to the percentage of the total ICI premium paid by the employer. The taxable portion of the benefit is based on an average of the premium percentage paid by the employer over the three years prior to the year in which the ICI benefits are first paid. However, due to continuing revisions of tax laws and the interpretation of the revenue code, claimants should consult both state and federal tax authorities for answers to specific questions concerning the exclusion or inclusion of such benefit payments as taxable income.

The ICI third party administrator automatically withholds Federal income tax from the taxable portion of a benefit at the rate of 25%. The claimant may submit Form W-4S to change the percentage of Federal tax withheld. Form W-4S is available from the Internal Revenue Service.

Wisconsin State income tax will be withheld from a taxable ICI benefit only when the claimant submits the Wisconsin withholding exemption form WT-4. The form is available from the Wisconsin State Department of Revenue.